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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,400

01/11/2005

Segen Farid Estefen

10008.005

2198

7590

02/23/2007

Fildes & Outland

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

eD

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,400	<b>Applicant(s)</b> ESTEFEN ET AL.	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: there is no brief description of the drawings as required.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 6, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Obeshaw (468). The reference to Obeshaw discloses the recited sandwich pipeline where the recitation of for “ultra deep waters” is considered to be in the preamble and breathes no life into the body of the claim as well as being merely intended use where the pipe of Obeshaw is capable of use in deep waters in that it is of the same structure, comprising an internal layer 10 and external layer 8 can both be formed of metal such as carbon steel or stainless steel, and has an intermediate layer 6 can be formed of

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various materials including foams and is meant to provide structural strength and being made of insulating materials is considered low in thermal conductivity, where polypropylene can be used to form the intermediate layer.

Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Motsenbocker, Jr. The patent to Motsenbocker, Jr. discloses the recited sandwich pipeline where the recitation of for "ultra deep waters" is considered to be in the preamble and breathes no life into the body of the claim as well as being merely intended use where the pipe of Motsenbocker, Jr. is capable of use in deep waters in that it is of the same structure, comprising an internal layer 6 of stainless steel and external layer 11 made of carbon steel, and has an intermediate layer 12 can be formed of cement material such as concrete which contains cement where the layer is provided for strength and being made of insulating material is considered low in thermal conductivity.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker, Jr. in view of Obeshaw (468). The patent to Motsenbocker, Jr. discloses all of the recited structure with the exception of forming the inner layer of carbon steel.

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It would have been obvious to one skilled in the art to modify the inner layer of Motsenbocker, Jr. to be formed of carbon steel instead of stainless steel as such is an equivalent material used for the inner layer of a pipe in place of stainless steel as suggested by Obeshaw where such would lessen the cost by removing the need to use an expensive steel such as stainless steel thereby saving money.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker, Jr. in view of Sumner. The patent to Motsenbocker, Jr. discloses all of the recited structure with the exception of forming the intermediate layer of polypropylene. The patent to Sumner discloses that it is old and well known in the art to form intermediate layers of pipes with inner and outer metal pipes with of various materials including cements and polypropylene. It would have been obvious to one skilled in the art to modify the intermediate layer of Motsenbocker, Jr. by forming such of polypropylene instead of cement where such is an equivalent material used as an intermediate layer between metal pipes as suggested by Sumner and would provide for a lighter pipe that would be easier to install and thereby save installation costs.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker, Jr. in view of Obeshaw (468) as applied to claims 2 and 7 above, and further in view of Sumner. The patent to Motsenbocker, Jr. as modified discloses all of the recited structure with the exception of forming the intermediate layer of polypropylene. The patent to Sumner discloses that it is old and well known in the art to form intermediate layers of pipes with inner and outer metal pipes with of various materials including cements and polypropylene. It would have been obvious to one

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skilled in the art to modify the intermediate layer of Motsenbocker, Jr. as modified by forming such of polypropylene instead of cement where such is an equivalent material used as an intermediate layer between metal pipes as suggested by Sumner and would provide for a lighter pipe that would be easier to install and thereby save installation costs.

### ***Response to Arguments***

Applicant's arguments filed November 27, 2006 have been fully considered but they are not persuasive. With respect to the arguments directed at Obeshaw not teaching a pipe for transportation of fluids, this argument is not persuasive when the scope of the claims does not positively recite a pipe for transportation of fluids, therefore the reference to Obeshaw is a pertinent reference. The use of the article in deep waters is merely intended use as well, where this is set forth in the preamble which fails to breathe life into the body of the claim but merely sets forth intended use. With respect to Obeshaw not disclosing the use of polypropylene or cement, it is noted that polypropylene is set forth by the reference, and a reference need not teach every possible embodiment when the word "or" is used to set forth a list of possible materials used for the layer. Therefore, Obeshaw only is required to teach at least one of the possible options, where Obeshaw at least teaches polypropylene or the use of a polymer as set forth in the claim such meets the claim language under 25 USC 102. With respect to any specific structure of that layer, any argument as to the shape of the layer is moot when such is not set forth in the claim language, therefore any shaped layer between the inner and outer metal layers meets the claimed structure, where any

argument directed toward the layer shape or how it is formed is more detailed than the claim language. With respect to Motsenbocker not teaching all the possible materials utilized for the intermediate layer, as set forth above, the reference is not required to teach every possible embodiment to meet the claim language when alternate materials are set forth as a list utilizing the word "or", therefore the reference need only teach one of the embodiments to meet the claim language under 35 USC 102. The pipe set forth in Motsenbocker would meet the claim language of use for other fluids when such is a pipe utilized for fluid flow the fluid being "other fluid", and the use of such in ultra deep waters is merely intended use. Applicant has not argued this point, and Motsenbocker clearly sets forth a pipe for use with fluids that are warm that is provided in a cold environment, where cold temperatures are normally found in deep waters, therefore Motsenbocker is capable of use in this environment for this intended use. With respect to the arguments directed at Sumner, such sets forth that polypropylene can be used as set forth in column 10, lines 4-24 to improve characteristics for under water use, cement is set forth in column 10, line 66 to column 11 line 35 and such is also used for under sea applications. Therefore such meets the claim language, and it is noted that the claims do not set forth that the intermediate layer is made of insulating material, such is not the manner in which the claim language sets forth this layer, therefore the arguments are more detailed than the claim language.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Drushel, Sigmund, Patterson, Maxson, Svec, Ohrn, Jarvenkyla, and Keyes (621 and 557) disclosing state of the art sandwich pipes.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

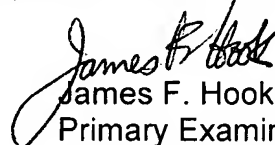
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH